



[3411-15-P]

## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

#### **Notice of Updated Information Concerning the Mountain Valley Pipeline Project and Equitrans Expansion Project and the Associated Forest Service Land and Resource Management Plan Amendments**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; updating information.

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**SUMMARY:** The USDA Forest Service (Forest Service) is participating as a cooperating agency with the Federal Energy Regulatory Commission (FERC) and the Bureau of Land Management (BLM) in the preparation of the Mountain Valley Pipeline Project (MVP) and Equitrans Expansion Project (EEP) Environmental Impact Statement (EIS). On October 14, 2016, the Forest Service published in the *Federal Register* (81 FR 71041) a Notice of Availability of the Mountain Valley Pipeline Project and Equitrans Expansion Project Draft Environmental Impact Statement and the Draft of Amendments to the Jefferson National Forest's Land and Resource Management Plan (LRMP) to allow for the MVP to cross through the Jefferson National Forest. Since that publication, the Forest Service determined there is a need to disclose the following: new information relating to the proposed LRMP amendments and the substantive provisions in the 2012 Planning Rule that are likely to be directly related to the proposed amendments. In addition, a proposed change to one of the LRMP amendments will result in a change to

the administrative review procedures as outlined in the October 14, 2016 *Federal Register* Notice.

**FOR FURTHER INFORMATION CONTACT:** Information about the MVP Project is available from the FERC's Office of External Affairs at 866-208-FERC (3372), or on the FERC Web site ([www.ferc.gov](http://www.ferc.gov)). On the FERC's website, go to "Documents & Filings," click on the "eLibrary" link, click on "General Search" and enter the docket number CP16-10. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov), or toll free at 866-208-3676, or for TTY, contact 202-502-8659. The eLibrary link also provides access to the texts of formal documents issued by the FERC such as orders, notices, and rulemakings.

For information related specifically to the new information provided in this Notice, please contact Karen Overcash, Forest Planner, George Washington and Jefferson National Forests at 540-265-5175 or [kovercash@fs.fed.us](mailto:kovercash@fs.fed.us).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

This Notice is specific to the Forest Service. The Mountain Valley Pipeline route would cross about 3.4 miles of lands managed by the Jefferson National Forest (JNF), in Monroe County, West Virginia and Giles and Montgomery Counties, Virginia. The Equitrans Expansion Project would not cross the Jefferson National Forest.

The FERC is the NEPA Lead Federal Agency for the environmental analysis of the construction and operation of the proposed MVP and Equitrans Expansion Project. Under the Mineral Leasing Act (30 U.S.C. 185 *et seq.*), the BLM is the Federal agency

responsible for issuing right-of-way grants for natural gas pipelines across Federal lands under the jurisdiction of two or more Federal agencies. The BLM is therefore, considering the issuance of a right-of-way grant to Mountain Valley for pipeline construction and operation across the lands under the jurisdiction of the Forest Service and the US Army Corps of Engineers (USACE). Before issuing the right-of-way grant, the BLM would need to acquire the written concurrences of the Forest Service and the USACE. Through this concurrence process, the Forest Service would submit to the BLM any stipulations for inclusion in the right-of-way grant that are deemed necessary to protect Federal property and otherwise protect the public interest.

The FERC's Draft EIS for the MVP Project included the consideration of a BLM right-of-way grant across Federal lands, along with the associated proposed Forest Service LRMP amendments. The BLM and Forest Service can adopt FERC's EIS for agency decisions, including the necessary amendments to the LRMP, if the analysis provides sufficient evidence to support those decisions and the Forest Service is satisfied that its comments and suggestions have been addressed.

### **Planning Rule Requirements for LRMP Amendments**

On December 15, 2016 the Department of Agriculture Under Secretary for Natural Resources and Environment issued a final rule that amended the 36 CFR 219 regulations pertaining to National Forest System Land Management Planning (the planning rule) (81 FR 90723, 90737). The amendment to the 219 planning rule clarified the Department's direction for amending LRMPs. The Department also added a requirement for amending a plan for the responsible official to provide notice "about which substantive requirements of §§ 219.8 through 219.11 are likely to be directly

related to the amendment” (36 CFR 219.13(b)(2), 81 FR at 90738). Whether a rule provision is directly related to an amendment is determined by any one of the following: the purpose for the amendment, a beneficial effect of the amendment, a substantial adverse effect of the amendment, or a lessening of plan protections by the amendment.

The following descriptions of the proposed amendments to the JNF’s LRMP that are anticipated to be addressed in the Final EIS include a description of the “substantive requirements of §§ 219.8 through 219.11” likely to be directly related to each amendment.

### **New Information for LRMP Amendments and Relationship to Substantive Requirements in the Planning Rule**

The FERC’s Draft EIS for the MVP and the Notice of Availability published in the *Federal Register* on October 14, 2016 included the consideration of Forest Service LRMP amendments that would be needed to make the proposed pipeline construction and operation consistent with the JNF LRMP (36 CFR 219.15). These amendments would need to be approved before the Forest Service could issue a letter of concurrence to the BLM.

The Draft EIS identified project-specific plan amendments that would be needed for the construction and operation of the MVP that otherwise could not, or potentially could not, meet certain standards in the JNF LRMP. These amendments are considered project-specific amendments because they would apply only to MVP and would not change LRMP requirements for other projects.

Since the Draft EIS, the Forest Service has reconsidered whether a project-specific amendment would still be necessary to ensure the MVP was consistent with

some of the LRMP standards, has identified the need for a project-specific amendment with respect to several other LRMP standards, and has determined that a management prescription reallocation would not be necessary to approve the project.

### **Jefferson National Forest**

The following proposed amendment to the JNF LRMP would be a project-specific amendment, applicable only to the MVP Project. This amendment would not change the applicability of LRMP requirements for other, future projects.

**Proposed Amendment, Part 1:** In the Draft EIS for the MVP and the October 14, 2016 *Federal Register* Notice of Availability, the original proposed amendment, part 1 was to amend the LRMP to reallocate 186 acres to Management Prescription 5C – Designated Utility Corridors from Management Prescriptions 4J – Urban/Suburban Interface (56 acres), 6C – Old Growth Forest Communities Associated with Disturbance (19 acres) and 8A1 – Mix of Successional Habitats in Forested Landscapes (111 acres). Management Prescription 11 – Riparian Corridors would have remained embedded within the new Management Prescription 5C area. The basis for this proposed amendment was from Forestwide Standards FW-247 and FW-248:

Standard FW-247: Develop and use existing corridors and sites to their greatest potential in order to reduce the need for additional commitment of lands for these uses. When feasible, expansion of existing corridors and sites is preferable to designating new sites.

Standard FW-248: Following evaluation of the above criteria, decisions for new authorizations outside of existing corridors and designated communication sites

will include an amendment to the Forest Plan designating them as Prescription Area 5B or 5C.

This Management Prescription (Rx) allocation change would change management direction for any future activities within the designated Rx 5C corridor, and would not have been considered a project-specific amendment.

However, upon further examination, the Forest Service has determined it would be preferable to not reallocate the MVP corridor to a Management Prescription 5C Utility Corridor that would be 500 feet wide and would encourage future co-location opportunities. Instead the proposal is to now amend the LRMP with a project-specific amendment that would exempt the MVP Project from the requirements in Forestwide Standards FW-247 and FW-248. With this change, the 50 foot wide right-of-way needed for the MVP would remain within the existing management prescription areas (of Rx 4A-Appalachian National Scenic Trail Corridor, Rx 4J-Urban/Suburban Interface, Rx 6C-Old Growth Forest Communities Associated with Disturbance; Rx 8A1-Mix of Successional Habitats in Forested Landscapes; and Rx 11- Riparian Corridors).

This change from a plan amendment affecting future management to a project-specific amendment would also change the administrative review process for this proposed amendment from the 36 CFR 219, Subpart B procedures as described in the October 14, 2016 *Federal Register* Notice of Availability, to the 36 CFR 218 administrative review process that applies to the other proposed project-specific amendments for this project.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment is:

§ 219.10(a)(3) – “[The responsible official shall consider] “Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.”

**Proposed Amendment, Part 2:** The Forest Service proposes to amend Forestwide Standards FW-5, FW-8, FW-9, FW-13, FW-14 and Management Prescription Area Standard 11-003 to allow for the construction of the Mountain Valley Pipeline to exceed these soil and riparian corridor protection measures. Standards FW-8 and 11-003 were not originally identified in the Draft EIS for the MVP as standards that may need to be amended. These standards are:

Standard FW-5: On all soils dedicated to growing vegetation, the organic layers, topsoil and root mat will be left in place over at least 85% of the activity area and revegetation is accomplished within 5 years.

Standard FW-8: To limit soil compaction, no heavy equipment is used on plastic soils when the water table is within 12 inches of the surface, or when soil moisture exceeds the plastic limit. Soil moisture exceeds the plastic limit when soil can be rolled to pencil size without breaking or crumbling.

Standard FW-9: Heavy equipment is operated so that soil indentations, ruts, or furrows are aligned on the contour and the slope of such indentations is 5 percent or less.

Standard FW-13: Management activities expose no more than 10% mineral soil in the channeled ephemeral zone.

Standard FW-14: In channeled ephemeral zones, up to 50% of the basal area may be removed down to a minimum basal area of 50 square feet per acre. Removal of

additional basal area is allowed on a case-by-case basis when needed to benefit riparian dependent resources.

Standard 11-003: Management activities expose no more than 10 percent mineral soil within the project area riparian corridor.

The amendment would provide an exception from these standards for the MVP Project and include specific mitigation measures and project design requirements for the project.

The 36 CFR 219 planning rule requirements likely to be directly related to amending the above standards are:

§ 219.8(a)(2)(ii) – “[The plan must include plan components to maintain or restore] Soils and soil productivity, including guidance to reduce soil erosion and sedimentation;”

§ 219.8(a)(2)(iv) – “[The plan must include plan components to maintain or restore] Water resources in the plan area, including lakes, streams, and wetlands; ... and other sources of drinking water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability);” and

§ 219.8(a)(3)(i) – The plan must include plan components “to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity.”

The Draft EIS for the MVP and the October 14, 2016 *Federal Register* Notice of Availability had also identified that Management Prescription Area Standard 11-017 may need to be amended. However, a further review of this standard has determined that the



proposed pipeline project can be made consistent with this standard and an amendment to this standard will not be needed. This standard is:

Standard 11-017: Tree removals from the core of the riparian corridor may only take place if needed to: enhance the recovery of the diversity and complexity of vegetation native to the site; rehabilitate both natural and human-caused disturbances; provide habitat improvements for aquatic or riparian species, or threatened, endangered, sensitive, and locally rare species; reduce fuel buildup; provide for public safety; for approved facility construction/renovation; or as allowed in standards 11-012 or 11-022.

**Potential Amendment, Part 3:** The Draft EIS for the MVP and the October 14, 2016 *Federal Register* Notice of Availability had identified that Forestwide Standard FW-77 may need to be amended. However, a further review of this standard has determined that the proposed pipeline project can be made consistent with this standard and an amendment to this standard will not be needed. This standard is:

Standard FW-77: Inventory stands for existing old growth conditions during project planning using the criteria in Appendix D. Consider the contribution of identified patches to the distribution and abundance of the old growth community type and to the desired condition of the appropriate prescription during project analysis.

However, while an amendment to Standard FW-77 will not be needed, since proposed amendment – part 1 has been changed and the lands will not be reallocated to Management Prescription 5C, the pipeline will be located on lands in Management

Prescription 6C. As such, the following standards in Management Prescription 6C will need to be amended to allow for a new utility right-of-way within this prescription area:

Standard 6C-007: Allow vegetation management activities to: maintain and restore dry-mesic oak forest, dry and xeric oak forest, dry and dry-mesic oak-pine old growth forest communities; restore, enhance, or mimic historic fire regimes; reduce fuel buildups; maintain rare communities and species dependent on disturbance; provide for public health and safety; improve threatened, endangered, sensitive, and locally rare species habitat; control non-native invasive vegetation.

Standard 6C-026: These areas are unsuitable for designation of new utility corridors, utility rights-of-way, or communication sites. Existing uses are allowed to continue.

The 36 CFR 219 planning rule requirements likely to be directly related to this part of the amendment are:

§ 219.8(a)(1) – “The plan must include plan components, including standards and guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity.”

§ 219.11(c) – “The plan may include plan components to allow for timber harvest for purposes other than timber production ... or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan...”

**Proposed Amendment, Part 4:** The JNF LRMP would be amended to allow the Mountain Valley Pipeline to be exempt from Management Prescription Area Standard 4A-028 and cross beneath the Appalachian National Scenic Trail (ANST) in Giles County, Virginia. This standard is:

Standard 4A-028: Locate new public utilities and rights-of-way in areas of this management prescription area where major impacts already exist. Limit linear utilities and rights-of-way to a single crossing of the prescription area, per project.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment is:

§ 219.10(b)(1)(vi) – “[The plan must include plan components to provide for] Appropriate management of other designated areas or recommended designated areas in the plan area.”

The Draft EIS for the MVP and the October 14, 2016 *Federal Register* Notice of Availability had also identified that Management Prescription Area Standard 4A-020 may need to be amended. However, a further review of this standard has determined that the proposed pipeline project can be made consistent with this standard and an amendment to this standard will not be needed. This standard is:

Standard 4A-020: All management activities will meet or exceed a Scenic Integrity Objective of High.

**Potential Amendment, Part 5:** After the Draft EIS was released, it has been identified that the JNF may also need to amend Forestwide Standard FW-184 to allow for the construction of the Mountain Valley Pipeline to deviate from the Scenic Integrity Objectives (SIOs) established in the LRMP. This standard is:

Standard FW-184: The Forest Scenic Integrity Objectives (SIOs) Maps govern all new projects (including special uses). Assigned SIOS are consistent with Recreation Opportunity Spectrum management direction. Existing conditions may not currently meet the assigned SIO.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment is:

§ 219.10(b)(i) – “[The plan must include plan components to provide for] “Sustainable recreation; ... and scenic character.”

If any of the five parts of the proposed amendment to the JNF LRMP described above are determined to be “directly related” to a substantive rule requirement, the Responsible Official must apply that requirement within the scope and scale of the proposed amendment and, if necessary, make adjustments to the proposed amendment to meet the rule requirement (36 CFR 219.13 (b)(5) and (6)).

#### **Administrative Review of Plan Amendment Decisions**

The decision for a right-of-way grant across Federal lands will be documented in a record of decision issued by the BLM. The BLM’s decision to issue, condition, or deny a right-of-way will be subject to BLM administrative review procedures established in 43 CFR 2881.10 and the procedures established in section 313(b) of the Energy Policy Act of 2005. The Forest Service concurrence to BLM to issue the right-of-way grant would not be a decision subject to the NEPA and therefore, would not be subject to the Forest Service administrative review procedures. The Forest Service would, however, issue its own draft record of decision for the project-specific amendment to the JNF LRMP that

would be subject to the administrative review procedures under the 36 CFR 218 regulations (per 36 CFR 219.59(b)).

The Reviewing Official for any objection filed on amending the JNF LRMP to allow for the MVP Project will be the Regional Forester for the Southern Region, or if delegated, the Deputy Regional Forester (36 CFR 218.3(a)).

**RESPONSIBLE OFFICIAL FOR FOREST SERVICE LRMP AMENDMENTS:**

The Forest Supervisor for the George Washington and Jefferson National Forests, Joby P. Timm, is the Responsible Official for amending the Jefferson National Forest LRMP.

Dated: May 10, 2017.

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Robert M. Harper  
Acting Associate Deputy Chief  
National Forest System  
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